

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

DAVON YOUNG,

Petitioner,

DECISION AND ORDER

-against-

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15-CV-3941 (CS)
09-CR-274 (CS)

UNITED STATES OF AMERICA,

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Respondent.

Seibel, J.

Before the Court is Petitioner Davon Young’s motion for reconsideration pursuant to Federal Rule of Civil Procedure 60(b), (ECF No. 223); the Government’s opposition thereto, (ECF No. 225); Petitioner’s reply (ECF No. 226); and the Government’s opposition thereto, (ECF No. 228).¹ Familiarity with prior proceedings is presumed.

Relying on *Lora v. United States*, 599 U.S. 453 (2023), Petitioner has moved for reconsideration of my November 16, 2015 decision denying his petition under 28 U.S.C. § 2255, (ECF No. 132), to the extent that that ruling held that his sentence for his conviction under 18 U.S.C. § 924(j) had to run consecutively to any other sentence, (ECF No. 223).

With respect to Rule 60(b)(5), the application is denied essentially for the reasons stated by the Government in ECF No. 225. There is no “reversed or vacated” decision on which my 2015 decision, (ECF No. 132), was based. With respect to Rule 60(b)(6), the application is denied essentially for the reasons stated by the Government in ECF No. 228. That rule likewise does not provide a pathway around the limitations on successive § 2255 petitions in the circumstances here.

¹All docket references are to No. 09-CR-274.

Counsel for Petitioner shall advise, no later than February 25, 2024, whether Petitioner would prefer me to deny the motion or to transfer it to the Second Circuit as a successive § 2255 petition.

Dated: January 22, 2024
White Plains, New York



CATHY SEIBEL, U.S.D.J.